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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/648,132	08/25/2000	Elle B. Kelly	99-2015	5362

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EXAMINER

WONG, ALLEN C

ART UNIT	PAPER NUMBER
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2613

DATE MAILED: 01/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/648,132

Applicant(s)

KELLY, ELLE B.

Examiner

Allen Wong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15 is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 11/19/03 have been fully read and considered but they are not persuasive.

The minor claim objections to claims 1 and 12 have been withdrawn.

The amendment to claims 1 and 12 have been acknowledged and these claims are rejected for the same reasons as claim 3, as will be elaborated below.

Regarding lines page 10 about paragraphs 4-6 of Office Action, paper no.3, the applicant's assessment about the rejection of claim 3 is correct, as the examiner meant to say that claim 3 is rejected on Breed in view of Harris, and not in Breed in view of Bauer. It was a typographical error on the examiner's part.

Now, the applicant argues that the combination of Breed and Harris does not teach or suggest claim 3 nor does it render obvious. The examiner respectfully disagrees. Breed's figure 2, element 211 is a monitoring device that has a fish-eye lens, not a reflective surface. However, Harris' figure 1 teaches the use of a monitoring mirror 20 to aid the images obtained from the rear of the vehicle to the mirror 80 located at the top of the driver. Therefore, it would have been obvious to one of ordinary skill in the art to combine the teachings of Breed and Harris Jr. as a whole for implementing the monitoring mirror located at the rear portion of the vehicle to achieve the task of monitoring the rear portion of the vehicle so as to be informed of when the child or baby is in need for more attention. Doing so would allow the parent or the driver the

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convenience of attending to the child or baby whom maybe in distress (eg. changing diapers, etc.).

The shifting of the location of the monitoring device to the back of the vehicle does not yield any unexpected results and that it is obvious to one of ordinary skill in the art to place the monitoring device to the rear of the vehicle so as to permit the driver to see the images from the rear of the vehicle in order to monitor the baby or passengers sitting behind the driver. In other words, it is a design choice. Also, court law states that the shifting of location of parts is not patentable because it is a design choice that does not yield any unexpected results to one of ordinary skilled in the art. In re Japikse, 86 USPQ 70 (CCPA 1950). Further, adjustability of the monitoring device or any other parts to produce a desired result as expected by one of ordinary skill in the art is not a patentable advance. In re Stevens, 101 USPQ 284 (CCPA 1954).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to one of ordinary skill in the art to combine the teachings of Breed and Harris Jr. as a whole for implementing the monitoring mirror located at the rear portion of the vehicle to achieve the task of monitoring the rear portion of the vehicle so as to be

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informed of when the child or baby is in need for more attention. Doing so would allow the parent or the driver the convenience of attending to the child or baby whom maybe in distress (eg. changing diapers, etc.).

Furthermore, the combination of Breed and Harris is combinable and reasonable because they both pertain to the same, analogous environment, the monitoring of the vehicle's interior.

Regarding page 12 ^{of} ~~about~~ applicant's remarks about claims 4-11, applicant asserts that claims 4-11 are not rejectable for the same reasons as discussed for claims 1 and 12, and that neither Breed, Harris nor Bauer, taken alone or in any combination, teach, disclose or suggest the limitation of the headrest of the rear seat. The examiner respectfully disagrees. Bauer does teach that the mirrors can be placed and utilized in any desired combination of locations, inside or outside (col.7, ln.4-13). Bauer teaches that the placement of the mirrors is an obvious adjustment and design choice to achieve the desired results of obtaining image data of the places that one wants to conveniently monitor. Therefore, it would have been obvious to one of ordinary skill in the art to combine the teachings of Breed, Harris Jr. and Bauer as a whole for implementing the mirrors in any desired location to achieve the task of monitoring the rear and the front portion of the vehicle with the desired results so as to be informed of when the child or baby is in need for more attention. Doing so would allow the parent or the driver the convenience of attending to the child or baby whom maybe in distress (eg. changing diapers, etc.).

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The shifting of the location of the monitoring device to the back of the vehicle does not yield any unexpected results and that it is obvious to one of ordinary skill in the art to place the monitoring device to the rear of the vehicle so as to permit the driver to see the images from the rear of the vehicle in order to monitor the baby or passengers sitting behind the driver. In other words, it is a design choice. Also, court law states that the shifting of location of parts is not patentable because it is a design choice that does not yield any unexpected results to one of ordinary skilled in the art. In re Japikse, 86 USPQ 70 (CCPA 1950). Further, adjustability of the monitoring device or any other parts to produce a desired result as expected by one of ordinary skill in the art is not a patentable advance. In re Stevens, 101 USPQ 284 (CCPA 1954).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to one of ordinary skill in the art to combine the teachings of Breed, Harris Jr. and Bauer, as a whole, for implementing the monitoring mirror located at the rear portion of the vehicle to achieve the task of monitoring the rear portion of the vehicle so as to be informed of when the child or baby is in need for more attention. Doing so

would allow the parent or the driver the convenience of attending to the child or baby whom maybe in distress (eg. changing diapers, etc.).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1-3 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Breed (GB 2301922 A) in view of Harris Jr. (4,687,305).

Regarding claim 1, Breed discloses a child monitoring system comprising:

a vehicle having an interior compartment, said interior compartment having a front portion and a rear portion (see fig.2, Breed discloses the vehicle is a car that clearly has a front portion and a rear portion);

a housing coupled to an interior surface of said front portion of said vehicle, said housing having a reflective surface (pg.19, ln.14 and note fig.1A specifically shows a rear view mirror 105, a reflective viewing a housing coupled to the interior surface of the car's windshield);

a monitoring device coupled to an interior surface of said rear portion of said vehicle (fig.2, note element 211 is a monitoring device or imaging device coupled to the interior rear portion of the vehicle to monitor the baby in the vehicle's rear seat).

Although Breed does not disclose the said monitoring device directing information to said reflective surface. However, Harris Jr. teaches the use of a

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monitoring device directing information to said reflective surface (fig.1, note the monitoring mirror 20, ie. monitoring device, reflects the image of the rear portion of the vehicle back to the reflective surface of the rear-view mirror 80). Therefore, it would have been obvious to one of ordinary skill in the art to combine the teachings of Breed and Harris Jr. as a whole for implementing the monitoring mirror located at the rear portion of the vehicle to achieve the task of monitoring the rear portion of the vehicle so as to be informed of when the child or baby is in need for more attention. Doing so would allow the parent or the driver the convenience of attending to the child or baby whom maybe in distress (eg. changing diapers, etc.).

Note claim 12 has similar corresponding elements.

Regarding claim 2, Breed discloses the reflective surface is a rear-view mirror (pg.19, ln.14 and fig.1A, element 105 is a rear-view mirror).

Regarding claim 3, Breed does not disclose the monitoring device is a monitoring mirror being couple to the interior surface of the rear portion of the vehicle, where the front portion of the mirror reflects the image back to the rear-view mirror for the driver to observe. However, Harris Jr. teaches the monitoring device is a monitoring mirror being couple to the interior surface of the rear portion of the vehicle, where the front portion of the mirror reflects the image back to the rear-view mirror for the driver to observe (fig.1, note the monitoring mirror 20 reflects the image of the rear portion of the vehicle back to the rear-view mirror 80). Therefore, it would have been obvious to one of ordinary skill in the art to combine the teachings of Breed and Harris Jr. as a whole for implementing the monitoring mirror located at the rear portion of the vehicle to achieve the task of

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monitoring the rear portion of the vehicle so as to be informed of when the child or baby is in need for more attention. Doing so would allow the parent or the driver the convenience of attending to the child or baby whom maybe in distress (eg. changing diapers, etc.).

Regarding claim 13, Breed discloses the viewing surface is a video monitor coupled on the dash of the vehicle (pg.20, ln.18 to pg.21, ln.4; discloses the "heads-up display"); and the imaging device is a video camera (pg.27, ln.1-4 and fig.2, element 211; note the optical interior device 211 is a video camera that has a fish eye lens to monitor and capture images, as desired, in the selectable area in the rear portion of the vehicle).

Regarding claim 14, Breed discloses the imaging device being a plurality of cameras to monitor and observe multiple selectable areas of the rear portion of the vehicle (see fig.2, note there can be multiple cameras 210-213 to provide multiple views of the rear portion of the vehicle).

1. Claims 4-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Breed (GB 2301922 A) and Harris Jr. (4,687,305) in view of Bauer (5,808,778).

Although Breed does not specifically disclose the monitoring device is a monitoring mirror located in the headrest of the rear seat. However, Bauer does teach that the mirrors can be placed and utilized in any desired combination of locations, inside or outside (col.7, ln.4-13). In other words, Bauer discloses that these mirrors can be located at any desired position to achieve the task of monitoring the rear and the front portion of the vehicle with the desired results. Therefore, it would have been

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obvious to one of ordinary skill in the art to combine the teachings of Breed, Harris Jr. and Bauer as a whole for implementing the mirrors in any desired location to achieve the task of monitoring the rear and the front portion of the vehicle with the desired results so as to be informed of when the child or baby is in need for more attention. Doing so would allow the parent or the driver the convenience of attending to the child or baby whom maybe in distress (eg. changing diapers, etc.).

Allowable Subject Matter

1. Claim 15 is allowed.
2. The following is a statement of reasons for the indication of allowable subject matter: the prior art, taken alone or in any combination, does not teach the combination of limitations as disclosed on independent claim 15.

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allen Wong whose telephone number is (703) 306-5978. The examiner can normally be reached on Mondays to Thursdays from 8am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (703) 305-4856. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

Allen Wong
Examiner
Art Unit 2613

AW
1/14/04


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